

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09CV130-MU-02

JOHN D. LEATHERWOOD,)
Petitioner,)
)
v.) ORDER
)
STATE OF NORTH CAROLINA,)
)

THIS MATTER comes before the Court on Petitioner's "Affidavit in Support of Request To Proceed In Forma Pauperis," filed April 22, 2009 (Doc. No. 4).

The record of this matter reflects that on March 31, 2009, Petitioner filed a Petition Under 28 U.S.C. § 2254 For Writ Of Habeas Corpus . . ." (Doc. No. 1) and an Application to Proceed in District Court without Prepaying Fees or Costs (Doc. No. 1-2).

Upon the Court's initial review of those matters, it determined that the IFP Application did not contain the required prison certification and the Habeas Petition was untimely filed. Accordingly, by Order entered April 6, 2009, the Habeas Petition was dismissed; Petitioner's IFP Application was denied; and he was directed to pay the \$5.00 filing fee. (Doc. No. 2).

However, Petitioner has filed the instant IFP Application (Doc. No. 4) which contains the appropriate certification. Such

certification conclusively establishes that Petitioner did not have sufficient funds from which to pay the filing fee. Accordingly, Petitioner's second IFP Application (Doc. No. 4) is granted and his \$5.00 filing fee is waived.

SO ORDERED.

Signed: April 8, 2010



Graham C. Mullen
United States District Judge

